

00016-083950

GJR/DA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JODI GROSSBARD,

Plaintiff,

ANSWER

-against-

14-CV-7627

CHARLES CAIN, ANTHONY BROWN, MARIE LOUIS
MENG and THE NEW YORK AND PRESBYTERIAN
HOSPITAL,

**JURY TRIAL
DEMANDED**

Defendants.

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Defendant CHARLES CAIN, M.D., s/h/a CHARLES CAIN, by his attorneys, MARTIN
CLEARWATER & BELL LLP, answers the plaintiff's complaint as follows, upon information
and belief:

1. Denies knowledge or information sufficient to form a belief as to each and every
allegation contained in the paragraphs of the complaint designated "1", "2", "9", "11", "14",
"16", "20" and "22", except begs leave to refer all questions of fact to the trier of fact and all
questions of law to the Court.

2. Denies knowledge or information sufficient to form a belief as to each and every
allegation contained in the paragraph of the complaint designated "3".

3. Denies knowledge or information sufficient to form a belief as to each and every
allegation contained in the paragraphs of the complaint designated "4" and "5", except admits
that defendant THE NEW YORK AND PRESBYTERIAN HOSPITAL is a successor by merger
to THE PRESBYTERIAN HOSPITAL IN THE CITY OF NEW YORK, and owns and operates
a hospital located at the Columbia-Presbyterian Campus, 622 West 168th Street, New York, New
York 10032.

4. Denies knowledge or information sufficient to form a belief as to each and every

allegation contained in the paragraphs of the complaint designated “6”, “7”, “10”, “12”, “15”, “17”, “21” and “24”, except admits that defendant rendered certain professional services in accordance with acceptable medical standards and due care and begs leave to refer all questions of fact to the trier of fact and all questions of law to the Court.

5. Denies each and every allegation contained in the paragraphs of the complaint designated “19” and “23”.

AS TO THE FIRST CAUSE OF ACTION

6. Repeats and reiterates each and every denial and denial of knowledge or information sufficient to form a belief as to each of the allegations of the complaint reiterated and realleged by the plaintiff in the paragraph of the complaint designated “25”.

7. Denies each and every allegation contained in the paragraphs of the complaint designated “26”, “27”, “28”, “29”, “30”, “second 30” and “31”.

AS TO THE SECOND CAUSE OF ACTION

8. Repeats and reiterates each and every denial and denial of knowledge or information sufficient to form a belief as to each of the allegations of the complaint reiterated and realleged by the plaintiff in the paragraph of the complaint designated “32”.

9. Denies each and every allegation contained in the paragraphs of the complaint designated “33”, “34”, “35” and “36”.

AS A FIRST AFFIRMATIVE DEFENSE

10. Defendant CHARLES CAIN, M.D., s/h/a CHARLES CAIN denies liability, but if liability is found against this defendant and the liability is found to be 50% or less of the total liability assigned to all persons liable, then this defendant invokes the limits on liability for noneconomic loss set forth in CPLR §1601.

AS A SECOND AFFIRMATIVE DEFENSE

11. That defendant asserts the terms, provisions, limitations and rights contained in §4545 of the CPLR.

AS A THIRD AFFIRMATIVE DEFENSE

12. Upon information and belief, that the alleged cause or causes of action, if any, stated in the complaint, on behalf of the plaintiff are barred by the applicable statute of limitations.

AS A FOURTH AFFIRMATIVE DEFENSE

13. Defendant CHARLES CAIN, M.D., s/h/a CHARLES CAIN invokes the protection of Public Health Law 2805-d(4) with respect to the alleged cause of action for informed consent and reserves all his rights pursuant thereto.

JURY DEMAND


Defendants hereby demand a trial by jury on all issues so triable.

WHEREFORE, defendant CHARLES CAIN, M.D., s/h/a CHARLES CAIN demands judgment dismissing the complaint herein, together with the costs and disbursements of this action.

Dated: New York, New York
October 8, 2014

Yours, etc.,

MARTIN CLEARWATER & BELL LLP

By: 

Gregory J. Radomisli (GJR 2670)
A Member of the Firm
Attorneys for Defendant
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TO:
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Attorney for Plaintiff
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Suite 412
Garden City, New York 11530

CERTIFICATE OF SERVICE

I hereby certify that on October 6, 2014, the foregoing **ANSWER** was filed via the Court's electronic filing System. Parties may access this filing through the Court's system.

Service was also made via regular U.S. Mail on the following:

SILBERSTEIN, AWAD & MIKLOS, P.C.
Attorney for Plaintiff
600 Old Country Road
Suite 412
Garden City, New York 11530

By: 

Gregory J. Radomisli (GJR 2670)